

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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THE WILLIAM PENN LIFE INSURANCE  
COMPANY OF NEW YORK,

**NOTICE OF MOTION**

Plaintiff,

-against-

KIMBAL VISCUSO, CHARLES M. BIRNS  
and BETH S. MARTIN-BIRNS,

CIVIL ACTION NO.:  
08 Civ. 1141 (WCC)

Defendants.

**ECF CASE**

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PLEASE TAKE NOTICE, that upon the accompanying Affidavit of Victor Fonseca, sworn to February 7, 2008, the Affidavit of Robert D. Meade, sworn to April 23, 2008, and exhibits attached thereto, the accompanying Memorandum of Law and all prior pleadings in this action, the undersigned will move this Court before the Honorable William C. Conner, U.S.D.J., In the U.S. Courthouse, 300 Quarropas Street, White Plains, New York, at 9:30 a.m. on May 27, 2008, or as soon thereafter as counsel can be heard for an order: (1) pursuant to Fed.R.Civ.P. Rule 67 permitting plaintiff to deposit the sum of \$350,000 plus interest from April 4, 2007 to the date of deposit at a rate of 5 ½ % per annum into the registry of the Court; (2) pursuant to 28 U.S.C. § 2361 restraining the defendants from instituting or prosecuting any proceeding in any state or federal court affecting the policy of life insurance which is the subject of this action; and (3) granting plaintiff such other and further relief as the Court deems just and proper.

Dated: White Plains, New York  
April 23, 2008

BLEAKLEY PLATT & SCHMIDT, LLP

BY: Robert D. Meade

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